

REMARKS

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

In the Office Action, claims 11-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,582,135 to Brun et al. ("Brun") in view of U.S. Patent Publication 2003/0077047 to Hwang et al. ("Hwang"). By this amendment, claims 11, 12, 20, and 27 are amended and claims 1-10, 21, 28 and 33-35 are canceled, without disclaimer or waiver of the subject matter of those claims. Claims 1-10 and 33-35 were not elected in the Response to Election/Restriction Requirement filed on October 10, 2005. Applicants reserve the right to pursue the subject matter of the canceled claims in subsequent applications. Claims 11, 20 and 27 were amended to further prosecution and not in acquiescence of the arguments presented in the Office Action.

Rejection Under 35 U.S.C. § 103

Applicants traverse the rejection of claims 11-32 under 35 U.S.C. § 103(a) as being unpatentable over Brun in view of Hwang for at least the reason that neither reference discloses or suggests each and every element of the claimed invention. For example, neither Brun nor Hwang disclose or suggest "glass spacers," as recited in independent claims 11, 20, and a similar limitation in independent claim 27. The Office Action simply states that "the sleeves/ferrules (acting as spacers) can be made of glass." However, a review of Brun indicates that the sleeves 12 relied on by the Office Action as spacers are not disclosed as being made of glass, but is instead explicitly made of metal. See Brun col. 6, line 37; Office Action at 2. Hwang simply

lacks any equivalent structure to the sleeves of Brun and was not relied upon in the Office Action as providing spacer structure.

Because neither Brun nor Hwang disclose or suggest “glass spacers,” Applicants submit that claims 11, 20 and 27 are in condition for allowance. Claims 21 and 28 were canceled, obviating the objection of those claims. Claims 12-19, 22-26, and 29-32 are allowable at least for their dependency on an allowable independent claim.

Additionally, Applicants maintain from the Reply to Office Action filed on April 26, 2006, that claims 11-20, 22-27, and 29-32 are also allowable for at least the reason that, as recognized in the Office Action, Brun and Hwang fail to disclose “a dual fiber pigtail,” as recited in claims 11, 20, and 27. The Office Action argues that the Examiner is “interpreting” a dual fiber element and a dual fiber pigtail to have equivalent function. However, even if, assuming *arguendo*, that the recited portions have equivalent function, the *prima facie* burden requires that “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. § 2142. Additionally, “the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.” *Id.*, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Any showing of equivalent function, where the function is not a claim limitation, simply does not meet the burden for *prima facie* obviousness as required. The independent claims recite “a dual fiber pigtail.” Thus, the prior art must disclose or suggest a dual fiber pigtail, and not some functionally equivalent structure. For at least this reason, claims 11-20, 22-27, and 29-32 are allowable.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims. The Examiner is encouraged to contact the undersigned if the Examiner believes that a telephone interview or Examiner's amendment will further the prosecution of this application.

Respectfully submitted,
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